

Honorable Thomas S. Zilly

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

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| STRIKE 3 HOLDINGS, LLC, a Delaware corporation, |) | Case No. 2:17-cv-01731-TSZ |
| |) | |
| Plaintiff, |) | JOHN DOE, subscriber assigned IP address |
| |) | 73.225.38.130 |
| |) | AMENDED |
| vs. |) | INITIAL DISCLOSURES |
| |) | |
| JOHN DOE, subscriber assigned IP address |) | |
| 73.225.38.130, |) | |
| |) | |
| Defendant. |) | |
| |) | |
| _____ |) | |
| An related Cross Actions |) | |
| |) | |

JOHN DOE, subscriber assigned IP address 73.225.38.130, (“DOE” or “Defendant”) makes the following initial disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure to Plaintiff, Strike 3 Holdings, LLC (“S3H”). The disclosures are based upon information and things presently available to DOE. The disclosures should not be construed as a statement that no other witnesses or relevant documents or things exist, and DOE reserves the right to produce and rely upon evidence or testimony from witnesses not identified in these disclosures.

**A. INDIVIDUALS LIKELY TO HAVE DISCOVERABLE INFORMATION THAT
DOE MAY USE TO SUPPORT HER COUNTERCLAIMS**

The following individuals are likely to have discoverable information that Defendant may use to support its defenses and counterclaims. All individuals employed by or currently affiliated with Defendant may be reached through Defendant's counsel. Information may include knowledge of the creation and registration of the copyrights, Plaintiff's settlements with other parties, etc. (FR= Fox Rothschild, JCE = Edmondson IP Law)

1. DOE, subscriber assigned IP address 73.225.38.130. Owner of Comcast Router, and computer at issue. – Documents regarding the computer, router, personal injury due to litigation. Represented by JCE. Name of Subscriber: [REDACTED] [Disclosure subject to a confidentiality order].
2. Greg Lansky – Creation and distribution of the works at issue. Represented by FR.
3. Tobias Fieser – German “investigator” with knowledge of the investigation techniques. Represented by FR.
4. John Pasquale – PCAP “investigator” with knowledge of the analysis of PCAPs. Represented by FR.
5. Susan Stalzer – “Fact Witness” re: infringement of works. Located in Chicago, IL. Maybe represented by FR.
6. Defendant's Expert Witnesses - May be contacted through JCE
 - a. Eric Fruits – Dr. Fruits is the economics expert on the valuation of the Work and can testify on actual damages under the copyright act and that Plaintiff has engaged in a “sue and settle” model regarding opinion testimony for Defendant's affirmative defense of copyright misuse.
 - b. Kal Toth – Dr. Toth will testify regarding the verification and validation of the German monitoring system that is used for infringement detection.
 - c. Michael Yasumoto – Hard Drive forensic expert.
7. IPP – Company that “investigates” the infringement. Located in Hamburg/Karlsruhe Germany or in the UK. Also associated with the company is Maverickeye, MaverickEye, UG – Maverickeye UG Helbronnestr Strasse 150 70191 – Operates the “Maverik Monitor™ investigative tool” which has allegedly identified an infringer. The following members/employees/subcontractors of MaverickEye, UG:
 - a. Daniel Macek is a German Citizen, represented by his own counsel. Daniel Macek is plaintiff's primary investigator who oversaw the direct peer-to-peer connection with defendant's IP address and is knowledgeable about associated activity, and records. Mr. Macek has information related to files and data collected data related to defendant's IP address. Address: c/o Maverickeye UG

Helbronnestr Strasse 150 70191 Stuttgart, Germany Tel: +49(0)721-977-95-73. Web: <http://www.maverickeye.de>

- b. Ben Parino is a German Citizen, represented by his own counsel. Ben Parino an owner of plaintiff s investigator IPP/MaverickEye UG, is knowledgeable about the software used by plaintiffs investigator and has knowledge about peer-to-peer file exchanges and the veracity of plaintiffs investigations. Address: c/o Maverickeye UG Heilbronner Strasse 150 70191 Stuttgart, Germany, Tel: +49(0)71149004127.
 - c. Tobias Feiser is a German Citizen, represented by Plaintiff's counsel. Mr. Fieser has information regarding the operation of the *Maverik Monitor* system, programming of the system, and the failure modes of the system.
 - d. Patrik Achache is a citizen of either Switzerland or the Phillipines, Achache an owner of plaintiff s investigator MaverickEye UG, is knowledgeable about the software used by plaintiffs investigator.
 - e. Also associated with IPP is: Excipio – Excipio GMBH, address provided monitoring for Plaintiff's system up and through at least 6/1/2015. People associated with Excipio are: Michael Patzer – Location unknown, but last time located in Thailand, System Designer of the Excipio system which may be the same system or identical.
 - f. Crystal Bay Corporation – Crystal Bay Corporation, South Dakota Shell Corporation, address currently unknown, has been associated with the entity.
8. Pornhub and other Licensees – Distributors of S3H works. Contact information only known via their respective websites.
 9. Emilie Kennedy – Knowledge of the implementation of Plaintiff's copyright monetization model. Knowledgeable of DMCA notices and Located in Beverly Hills. Represented by FR.
 10. Torrent Sites – Location of the Torrent Files and information on the “uploaders”.
 11. Strike 3 Holdings, LLC and affiliates as declared by Emilie Kennedy:
- Plaintiff Strike 3 Holdings, LLC (“Strike 3”) is a wholly owned subsidiary of GMS and serves as its intellectual property holding company. Strike 3 enters into assignments in which it obtains the rights to adult-content films produced by GL Web Media (“GLWM”), a production company wholly owned by Greg Lansky who is a member of GMS, and Kode Shop, LLC (“Kode”), a post-production company wholly owned by GMS. GLWM and Kode create GMS' audio-visual works, including those at issue in this case in Studio City, CA (*i.e.*, works under the *Blacked*, *Tushy*, and *Vixen* brands). Both GLWM and Kode are duly registered with the state of California.

12.XTakedowns – Service that purported delivers DMCA notices on behalf of

3 **B. RELEVANT DOCUMENTS AND THINGS**

DOE identifies the following documents and things that it may use to support its defenses and counterclaims:

4 In possession by S3H

- 5 a. Documents evidencing allegations of infringement of S3H's copyrighted
6 materials;
7 b. Chain of Title of the Copyrighted Work that is alleged to be infringed.
8 c. S3H's Financials regarding gross and net income received regarding the work;
9 d. All settlement agreements regarding the work and third party communications;
10 e. All agreements that involve the underlying rights of the films;
11 f. The published form of the work.
12 g. Contracts with independent "Investigators".
13 h. Raw data from the independent "Investigators".
14 i. DMCA notices generated by S3H or their agents.

11 In possession by DOE

- 12 a. A computer with access to a WiFi modem/router.
13 b. WIFI Router

14 In Possession by the United States Copyright Office

- 15 a. Documents relating to S3H's copyrights.

16 Federal Courts

- 17 a. Other cases involving S3H.

18 Other documents related to this case, including those falling within the above identified categories, which may be in the possession, custody or control of S3H.

19 **C. COMPUTATION OF DAMAGES**

20 The Copyright Act specifically provides for an award of Costs and Attorney fees to a prevailing party. State law crossclaims provide for damages.

22 **D. COPIES OF INSURANCE AGREEMENTS**

23 DOE is not aware of any insurance or indemnity agreements relevant to any of the claims herein.

24 Respectfully submitted,

26 Dated: July 20, 2018

/s/ J. Curtis Edmondson

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CERTIFICATE OF SERVICE

I, J. Curtis Edmondson, hereby certify that on July 20, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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Attorneys for Plaintiff Strike 3 Holdings LLC

DATED this 20th day of July, 2018.

By: /s/ J. Curtis Edmondson
J. Curtis Edmondson